

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SAMSON WELDMICHAEL
GEBREHIWET,

Petitioner,

v.

KIRSTJEN NIELSEN, et al.

Respondents.

CASE NO. C18-1790 RAJ

ORDER

This matter comes before the Court on Petitioner's Motion for Temporary Restraining Order. Dkt. # 2. Petitioner is a native and citizen of Eritrea who is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Northwest Detention Center. On December 12, petitioner, proceeding through counsel, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, together with an emergency motion for stay of removal. Dkt. ## 1, 2. Petitioner, by way of the instant habeas action, seeks to preserve his right to present a motion to reopen, and access his new counsel. Petitioner claims his previous attorney rendered ineffective assistance of counsel, and that absent a stay he would be deprived of his due process rights to move to reopen his case and pursue his options on appeal. Petitioner asserts that he requires a stay

1 of removal because deportation to Eritrea subjects him to a risk of torture and forcible
2 separation from his fiancé, who is a lawful permanent resident.

3 The Court has reviewed Petitioner's submissions, and finds that Petitioner has met
4 the minimum standards for a temporary stay of immediate deportation. Accordingly, the
5 Court **ORDERS** as follows:

6 (1) In light of the immediacy of the harm to petitioner before an opportunity for
7 review of the case on the merits takes place, Petitioner's removal is temporarily
8 **STAYED** pending resolution of Petitioner's Motion for Temporary Restraining Order.
9 During this time, Respondents are enjoined from removing Petitioner outside of this
10 judicial district until further direction from this Court. An order from this Court will
11 follow setting the date for a further hearing on Petitioner's Motion. The Court expresses
12 no views at this time as to the merits of Petitioner's habeas petition or Motion.

13 (2) The Clerk shall arrange for service upon Kirstjen Nielsen, Secretary of the
14 Department of Homeland Security; upon Matthew Whitaker, Attorney General of the
15 United States; upon Marc J. Moore, Acting Director of the Seattle District Office of
16 Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement,
17 Department of Homeland Security; and upon Steven Langford, GEO Group, Warden of
18 the Northwest Detention Center, of copies of the petition, of all documents in
19 support thereof, and of this Order by registered or certified mail, return receipt requested.
20 Where applicable and if not previously accomplished, electronic posting of this Order
21 and Petitioner's § 2241 habeas petition shall effect service upon the United States
22 Attorney of the petition and of all related and supporting documents. Service upon the
23 United States Attorney is deemed to be service upon the named respondents.

24 (3) Within thirty (30) days after such service, Respondents shall show cause why
25 a writ of habeas corpus should not be granted by filing and serving a return as provided in
26 28 U.S.C. § 2243. As a part of the return, Respondents shall submit a memorandum of
27 authorities in support of their position and state whether an evidentiary hearing is

1 necessary. Also as a part of the return, Respondents shall respond to Petitioner's request
2 for stay.

3 (4) The return will be treated in accordance with Local Rule LCR 7. Accordingly,
4 on the face of the return, respondents shall note it for consideration on the fourth Friday
5 after it is filed, and the Clerk shall note the return accordingly. Petitioner may file and
6 serve a response not later than the Monday immediately preceding the Friday appointed
7 for consideration of the matter, and respondents may file and serve a reply brief not later
8 than the Friday designated for consideration of the matter.

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10 Dated this 13th of December, 2018.

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14 The Honorable Richard A. Jones
15 United States District Judge
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